



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/805,870

03/22/2004

Eric B. Watson

306411.01/MFCP.140316

1784

45809 7590 11/27/2009
SHOOK, HARDY & BACON L.L.P.
(c/o MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER

POUNCIL, DARNELL A

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

11/27/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/805,870	Applicant(s) WATSON ET AL.	
	Examiner DARNELL POUNCIL	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 and 24-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 24-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/20/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims Summary

1. This Office Action is in response to the amendment filed on September 09, 2009. Claims 1, 3, 12, 15, and 21, have been amended. Claims 22 and 23 have been cancelled. Claims 1 –21 and 24- 30 remain pending and have been considered below.

Response to Amendment

2. In light of the applicant's amendments filed September 9, 2009, the claim objection has been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, it is unclear how the determining step relates to the paid yield representing the advertising revenue. Note the difference between the recitation of the paid yield being determined "based on" performance, conversion rate and revenue sharing percentage, and the later recitation of the same paid yield as representing advertising revenue from all user referrals. Dependent claims are rejected because by their dependence they include the language of rejected claim 1.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1 - 11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Based on Supreme Court precedent, to be patent eligible under 35 U.S.C. 101 a method/process claim must (1) be tied to a particular machine or apparatus or (2) transform a particular article into a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 70 (1972); *Diamond v. Diehr*, 450 U.S. 192 (1981); *Parker v. Flook*, 437 U.S. 589 n.9 (1978); and *Cochrane v. Deener*, 94 U.S. 780, 788 (1876)). Furthermore, the Supreme Court held that the use of a specific machine or transformation of an article must impose meaningful limits on the claim's scope to impart patentability (*Benson*, 409 U.S. 71-72). The involvement of the machine or transformation must not merely be insignificant extra-solution activity (*Flook*, 437 U.S. 590). Also see *In re Bilski*, No. 2007-1130, _F.3d_, 2008 WL4757.

The instant claims 1-11 fail to meet this test. The claims fail to transform a particular article into a different state or thing. The claims are not tied to a machine or apparatus. In order for a process claim to be considered statutory subject matter under 35 USC 101, the process must be tied to a machine, and the machine must be performing *an essential function* within the claim. Furthermore although there is a web page/site present it is considered to be insignificant extra-solution activity as it is involved in mere data gathering.

Claim Rejections - 35 USC § 103

Art Unit: 3688

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1 - 8 and 12– 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamangar et al. (US 2003/0046161), hereinafter referred to as Kamangar, in view of Asayama(2003/0220837) and further in view of Koningstein et al.(US 2005/0096980)

With respect to Claims 1: Kamangar discloses a method for optimizing the use of paid placement space in a search results Web page, the method comprising:

monitoring a performance of a paid listing placed for a fee in a search results Web page;[0013 & 0014] but does not explicitly disclose receiving conversion data associated with the paid listing, the conversion data representing sales revenue resulting from a user referral to a destination Web site associated with the paid listing;

calculating a conversion rate, wherein the conversion rate equals the total conversion data

Art Unit: 3688

over a time period divided by a total number of user referrals over the time period;

receiving a revenue sharing percentage associated with the paid listing, the revenue sharing percentage is a percentage of sales revenues from a user referral to the destination Web site that is used, in part, to determine the fee;

determining a paid yield associated with the paid listing based on the latest performance~ and conversion rate, and the revenue sharing percentage, wherein the paid yield represents advertising revenue resulting from all user referrals to the destination Web site over period of time; and

placing the paid listing in the search results Web page based on the paid yield.

However Asayama teaches receiving conversion data associated with the paid listing, the conversion data representing sales revenue resulting from a user referral to a destination Web site associated with the paid listing; [0005 & 0023,0024]

receiving a revenue sharing percentage associated with the paid listing, the revenue sharing percentage is a percentage of sales revenues from a user referral to the destination Web site that is used, in part, to determine the fee; [0018]

calculating a conversion rate, wherein the conversion rate equals the total conversion data over a time period divided by a total number of user referrals over the time period; [0024 and 0029]

Koningstein discloses determining a paid yield associated with the paid listing based on the latest performance~ and conversion rate, and the revenue sharing percentage, wherein the paid yield represents advertising revenue resulting from all user referrals to the destination Web

Art Unit: 3688

site over period of time; [0049]

placing the paid listing in the search results Web page based on the paid yield. [0049]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified the method of Kamangar wherein receiving conversion data associated with the paid listing, the conversion data representing sales revenue resulting from a user referral to a destination Web site associated with the paid listing;

calculating a conversion rate, wherein the conversion rate equals the total conversion data over a time period divided by a total number of user referrals over the time period;

receiving a revenue sharing percentage associated with the paid listing, the revenue sharing percentage is a percentage of sales revenues from a user referral to the destination Web site that is used, in part, to determine the fee;

determining a paid yield associated with the paid listing based on the latest performance~ and conversion rate, and the revenue sharing percentage, wherein the paid yield represents advertising revenue resulting from all user referrals to the destination Web site over period of time; and placing the paid listing in the search results Web page based on the paid yield.

in order to provide an advertiser with the necessary tools by allowing the advertiser to have access to tools that would allow him to monitor, maintain and optimize said advertising to increase the overall efficiency of the advertisement campaign, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Art Unit: 3688

Regarding **claim 2**, Kamangar, Asayama, and Koningstein disclose the method for optimizing the use of paid placement space in a search results Web page, as in claim 1 above, and Kamangar further discloses wherein the user referral to the destination Web site occurs when a user clicks on the paid listing to navigate to the destination Web site, and the performance of the paid listing is a click-through rate, where the click-through rate is derived from a number of times the paid listing is placed in the search results Web page, as compared to a number of times the user clicks on the paid listing after being displayed. ([0014])

Regarding **claim 3**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as in claim 1 above, and Asayama further teaches wherein the placement fee is based in part on the revenue sharing percentage.([0018])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the placement fee is a percentage of the paid yield associated with the paid listing, in order to properly associate a fee with paid listings, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claims 4 & 13**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as claim 1 above, and Kamangar further discloses selecting the paid listing for placing in the search results Web page, but does not explicitly disclose selecting the paid listing for placing in the search results Web

Art Unit: 3688

page based on the paid yield.

However Asayama teaches wherein selecting the paid listing for placing in the search results Web page based on the paid yield.([0005 & 0017])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar teaches wherein selecting the paid listing for placing in the search results Web page based on the paid yield, in order to assure that the better performing advertisements are obtaining better placement than non performing advertisements , since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 5**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page of claim 1, and Asayama further teaches wherein the conversion data includes data that captures a monetized event that occurred as a result of the user referral to the destination Web site associated with the paid listing, the monetized event including at least one of a sale of a product, a sale of a service, and another referral to an entity associated with the destination Web site, the entity including at least one of an individual, a business, and another Web site. ([0003])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar where in the conversion data includes data that captures a monetized event that occurred as a result of the user referral to the destination Web site associated with the paid listing, the monetized event including at least one of a sale of a product, a sale of a service, and another referral to an entity associated with the destination Web

Art Unit: 3688

site, the entity including at least one of an individual, a business, and another Web sit, in order to properly calculate conversion data, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 6**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as claim 1 above, and Kamangar further discloses wherein placing the paid listing in the search results Web page based on the paid yield includes placing the paid listing having a higher paid yield before the paid listing having a lower paid yield. ([0044 – 0046])

Regarding **claim 7**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as claim 4 above, and Kamangar further discloses wherein selecting the paid listing for placing in the search results Web page based on the paid yield includes selecting the paid listing having a higher paid yield over the paid listing having a lower paid yield. ([0044 – 0046])

Regarding **claim 8**, Kamangar, Asayama, and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as claim 5 above, and Asayama further teaches wherein the conversion data includes a dollar value associated with the monetized event.([0003])

Therefore, it would have been obvious to one having ordinary skill in the art at the time

Art Unit: 3688

the invention, to have modified method of Kamangar wherein teaches wherein the conversion data includes a dollar value associated with the monetized event, in order to properly assign an exact dollar value to the conversion data, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 12**, Kamangar et al. discloses, a paid listing yield optimization system comprising: a performance data repository containing performance data for a paid listing placed in a search results Web page, the performance data indicating how many times users visited a destination Web site by clicking on the paid listing;([0014]) but does not explicitly disclose a conversion data repository containing conversion data for the paid listing, the conversion data indicating how much money was generated by the destination website when a user visited the destination Web site; and a processor to calculate a paid yield associated with the paid listing based on current performance and conversion data, the paid yield indicating how much money was generated when users visited the destination Web site over a period of time, and to place the paid listing on the search results Web page in exchange for a portion of the paid yield.

However Asayama teaches a conversion data repository containing conversion data for the paid listing, the conversion data indicating how much money was generated when a user visited the destination Web site; ([0024])

a revenue sharing percentage repository containing a revenue sharing percentage associated with the paid listing, the revenue sharing percentage indicates a percentage of conversion data that is shared with an advertiser displaying the paid listing;[005,.0017, 0018] and

Art Unit: 3688

Koningstein discloses a processor to calculate a paid yield associated with the paid listing based on the .performance data from the performance data repository, the conversion data from the conversion data registry, and the revenue sharing percentage from the revenue sharing repository, the paid yield indicates how much money was generated when users visited the destination Web site over a period of time, and the paid yield is used to place the paid listing on the search results Web page in exchange for a portion of the paid yield, wherein the portion of the paid yield is based, in part, on the revenue sharing percentage. [0049]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein teaches a conversion data repository containing conversion data for the paid listing, the conversion data indicating how much money was generated when a user visited the destination Web site; and a processor to calculate a paid yield associated with the paid listing based on current performance and conversion data, the paid yield indicating how much money was generated when users visited the destination Web site over a period of time, and to place the paid listing on the search results Web page in exchange for a portion of the paid yield, in order to track the return on the investment and also allow said person to receive a commission for ad placement, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 14**, Kamangar and Asayama disclose a paid listing yield system as claim 12 above, and Kamangar further discloses wherein the performance data further indicates how many times the processor placed the paid listing on the search results Web page, and the

Art Unit: 3688

processor measures a performance of the paid listing by comparing the number of visits to the number of placements. ([0008])

Regarding **claim 15**, Kamangar and Asayama disclose disclose a paid listing yield system as claim 14 above, and Kamangar further discloses wherein to calculate the paid yield associated with the paid listing includes to calculate a conversion rate equaling an average amount of money generated per visit and to multiply the conversion rate by the performance and to additionally multiple by the revenue sharing percentage. ([0045, 0047, 0048])

Regarding **claim 16**, Kamangar and Asayama disclose disclose a paid listing yield system as claim 12 above, and Asayama further teaches wherein the processor receives updates to the conversion data repository from the destination Web site. [0005 & 0024])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein teaches the processor receives updates to the conversion data repository from the destination Web site, in order to track the return on the investment and also track the efficiency of the advertisements, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **Claims 17**, Kamangar and Asayama disclose a paid listing yield system as claim 12 above, Asayama teaches wherein the reported data is generated by a third party vendor that tracks how much money was generated and purchase activity at the destination Web site.

Art Unit: 3688

([0005 & 0006])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the reported data is generated by a third party vendor that tracks purchase activity at the destination Web site, in order to receive any information regarding purchases from several said websites and by using a third party vendor would decrease the traffic on said network, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **Claim 18**, Kamangar and Asayama disclose a paid yield optimization system as in claim 12 above, and Asayama further teaches wherein the processor receives updates to the conversion data repository from an intelligent agent initiated by the processor when the user clicked on the paid listing to visit the destination Web site. ([0025 & 0032])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the processor receives updates to the conversion data repository from an intelligent agent initiated by the processor when the user clicked on the paid listing to visit the destination Web site, in order to receive return on investment information, thereby insuring the advertising is performing efficiently, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results

Art Unit: 3688

Regarding Claim **19**, Kamangar and Asayama disclose disclose a paid listing yield system as claim 12 above, but do not explicitly disclose the reported data is generated in a common format irrespective of whether the data is generated by one of a destination Web site, an intelligent agent, and a third party vendor. However Official Notice is taken that it is old and well known within the data processing arts to use a common data format irrespective of who generates it. For example, it is common for files to be translated in “.txt” files in order to enabled the exchange of these files between IBM, Apple, and UNIX computers. Similarly, it is common for the .txt format to be used when transferring files between Microsoft Word™ and Word Perfect™ word processing systems.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Kamangar so as to have included a common format irrespective of whether the data is generated by one of a destination Web site, an intelligent agent, and a third party vendor in order to provide a common data format, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **Claims 20**, Kamangar and Asayama disclose a paid yield optimization system as in claim 12 above, and Asayama further teaches wherein the conversion data repository includes data associated with different destination Web sites, each destination Web site using a data format specific to that destination Web site. ([0023])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar conversion data repository includes data

Art Unit: 3688

associated with different destination Web sites, each destination Web site using a data format specific to that destination Web site, in order to inform the web affiliate which web site should be compensated for any said transactions, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results

Regarding **Claim 21**, Kamangar discloses, a computer-accessible medium having instructions that when executed by a computing system having a processor and memory, cause the computing system to perform a method for making optimal use of paid placement space on a search results user interface the method comprising:

recording a number of times a user navigates from a paid listing placed in a search results user interface to a destination Web site associated with the listing; ([40], click through count, is associated with the recording of clicks) measuring a performance, wherein the performance is a comparison between the number of times the user navigates to the destination Web site and the number of times the paid listing is placed in the search results user interface; [0014 and 0040] but does not explicitly disclose capturing a revenue amount of purchases generated at the destination Web site as a result of the user navigation;

calculating a conversion rate associated with the paid listing that indicates an average revenue amount of purchases per user navigation from the paid listing in the search result user interface to the destination Web site; receiving a revenue sharing percentage associated with the paid listing, wherein the revenue sharing percentage is a percentage of the revenue generated at the destination Web site as a result of user navigation that is used, in part, to place the paid

Art Unit: 3688

listing; calculating a paid yield, wherein the paid yield is calculated by multiplying the performance by the conversion rate that is also multiplied by the revenue sharing percentage; placing the paid listing on the search results user interface in exchange for a share of the paid yield, wherein the placement in the search results user interface is determined, in part, calculated paid yield.

However Asayama teaches capturing a revenue amount of purchases generated at the destination Web site as a result of the user navigation; ([0005]) receiving a revenue sharing percentage associated with the listing; [0018] calculating a paid yield of the paid listing based on the number of user navigations and the revenue amount of purchases and the revenue sharing percentage; ([0003]) and placing the paid listing on the search results user interface in exchange for a share of the paid yield, in accordance with the revenue sharing percentage, wherein the placement in the search results user interface is determined, in part, by the captured revenue amount of purchases and the calculated paid yield. ([0018], commission) calculating a conversion rate associated with the paid listing that indicates an average revenue amount of purchases per user navigation from the paid listing in the search result user interface to the destination Web site; [0024 and 0029]

receiving a revenue sharing percentage associated with the paid listing, wherein the revenue sharing percentage is a percentage of the revenue generated at the destination Web site as a result of user navigation that is used, in part, to place the paid listing; [0018]

Koningstein discloses calculating a paid yield, wherein the paid yield is calculated by multiplying the performance by the conversion rate that is also multiplied by the revenue sharing percentage; [0049]

Art Unit: 3688

placing the paid listing on the search results user interface in exchange for a share of the paid yield, wherein the placement in the search results user interface is determined, in part, calculated paid yield. [0049]

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar capturing a revenue amount of purchases generated at the destination Web site as a result of the user navigation; receiving a revenue sharing percentage associated with the listing; calculating a paid yield of the paid listing based on the number of user navigations and the revenue amount of purchases and the revenue sharing percentage; and placing the paid listing on the search results user interface in exchange for a share of the paid yield, in accordance with the revenue sharing percentage. wherein the placement in the search results user interface is determined, in part, by the captured revenue amount of purchases and the calculated paid yield, in order to track the return on the investment and also allow said person to receive a commission for ad placement, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 24**, Kamangar and Asayama disclose the computer-accessible medium of Claim 21, and Asayama further teaches wherein the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes generating an intelligent agent when the user navigates to the destination Web site, where the intelligent agent tracks user activity at the destination Web site and reports back the revenue amount of the user's purchase.([0005])

Art Unit: 3688

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein teaches the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes generating an intelligent agent when the user navigates to the destination Web site, where the intelligent agent tracks user activity at the destination Web site and reports back the revenue amount of the user's purchase in order to track the efficiency of the advertising, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 25**, Kamangar and Asayama disclose the computer-accessible medium of claim 21 above, and Asayama further teaches wherein the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes receiving data reporting the amount of the user's purchase. ([0024])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes receiving data reporting the amount of the user's purchase, in order to track the efficiency of the advertising, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Art Unit: 3688

Regarding **claim 26**, Kamangar and Asayama disclose the computer-accessible medium of Claim 25, and Asayama further teaches wherein the reported data is generated by the destination Web site. ([0005])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein teaches the reported data is generated by the destination Web site, in order to receive any information regarding purchases from said website, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **Claims 27**, Kamangar and Asayama disclose a paid listing yield system as claim 25 above, and Asayama teaches wherein the reported data is generated by a third party vendor that tracks purchase activity at the destination Web site. ([0005 & 0006])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the reported data is generated by a third party vendor that tracks purchase activity at the destination Web site, in order to receive any information regarding purchases from several said websites and by using a third party vendor would decrease the traffic on said network, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **Claims 28 & 29**, Kamangar and Asayama disclose disclose a paid listing yield system as claim 25 above, but do not explicitly disclose the reported data is generated in a

Art Unit: 3688

common format irrespective of whether the data is generated by one of a destination Web site, an intelligent agent, and a third party vendor. However Official Notice is taken that it is old and well known within the data processing arts to use a common data format irrespective of who generates it. For example, it is common for files to be translated in “.txt” files in order to enabled the exchange of these files between IBM, Apple, and UNIX computers. Similarly, it is common for the .txt format to be used when transferring files between Microsoft Word™ and Word Perfect™ word processing systems.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Kamangar so as to have included a common format irrespective of whether the data is generated by one of a destination Web site, an intelligent agent, and a third party vendor in order to provide a common data format, since doing so could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 30**, Kamangar and Asayama disclose the computer-accessible medium of Claim 21, and Asayama further teaches wherein the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes capturing a monetized event that occurred as a result of the user navigating to the destination Web site, the monetized event including at least one of a sale of a product, a sale of a service, and a user navigation to an entity associated with the destination Web site, the entity including at least one of an individual, a business, and another Web site.

Art Unit: 3688

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention, to have modified method of Kamangar wherein the capturing the revenue amount of purchases generated at the destination Web site as a result of the user navigation includes capturing a monetized event that occurred as a result of the user navigating to the destination Web site, the monetized event including at least one of a sale of a product, a sale of a service, and a user navigation to an entity associated with the destination Web site, the entity including at least one of an individual, a business, and another Web site in order to receive any information regarding purchases from several said websites and by using a third party vendor would decrease the traffic on said network, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.([0022, 0024])

9. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamangar et al. (US 2003/0046161), hereinafter referred to as Kamangar, in view of Koningstein et al.(US 2005/0096980) and further in view of Lipsky et al.(US 7,031,932), hereinafter referred to as Lipsky.

Regarding **claim 9**, Kamangar, Asayama and Koningstein disclose a method for optimizing the use of paid placement space in a search results Web page as clam 8 above, but does not explicitly disclose wherein calculating a conversion rate equals the total dollar value associated with the monetized events occurring as the result of user referrals to the destination Web site divided by the total number of user referrals over the period of time.

Art Unit: 3688

However Lipsky teaches wherein wherein calculating a conversion rate equals the total dollar value associated with the monetized events occurring as the result of user referrals to the destination Web site divided by the total number of user referrals over the period of time. (Col. 9, Lines 40 – 46)

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Kamangar and Asayama so as to have included calculating a conversion rate equals the total dollar value associated with the monetized events occurring as the result of user referrals to the destination Web site divided by the total number of user referrals over the period of time, in order to effectively gauge the effectiveness of the advertisement, thereby allowing an advertiser to determine which advertisement should be optimized and which advertisement should be removed due to poor performance, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding **claim 10**, Kamangar, Asayama , Koningstein and Lipsky disclose a method for optimizing the use of paid placement space in a search results Web page as claim 9 above, and Kamangar further discloses where the period of time is the time it takes to achieve a predefined number of placements of the paid listing in the search results Web page. ([14])

Regarding **claim 11**, Kamangar, Asayama , Koningstein and Lipsky disclose a method for optimizing the use of paid placement space in a search results Web page as claim10 above,

Art Unit: 3688

and Kamangar further discloses wherein the predefined number of placements is equal to a number of impressions used to measure the performance of the paid listing. ([0008 & 0033])

Response to Arguments

10. Applicant's arguments filed September 09, 2009 have been fully considered and in view of the new rejections below, are moot.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DARNELL POUNCIL whose telephone number is (571)270-3509. The examiner can normally be reached on Monday to Thursday 8 to 5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Weinhardt can be reached on (571)272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

Art Unit: 3688

like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D. P./

Examiner, Art Unit 3688

/ROBERT WEINHARDT/

Supervisory Patent Examiner, Art Unit
3688